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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91191056
Party	Defendant Franciscan Vineyards, Inc.
Correspondence Address	JOHN M RANNELLS BAKER & RANNELLS PA 575 ROUTE 28, SUITE 102 RARITAN, NJ 08869-1354 UNITED STATES jmr@br-tmlaw.com
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Date	08/22/2011
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
White Rock Distilleries, Inc.

Opposer

v.

Franciscan Vineyards, Inc.

Applicant
-----X

Opposition No. 91191056

Mark: PINNACLES RANCHES

Serial No.: 77/598674

**APPLICANT'S RESPONSE TO OPPOSER'S REQUEST THAT APPLICANT'S TRIAL
BRIEF BE GIVEN NO CONSIDERATION
AND APPLICANT'S MOTION FOR BOARD TO ACCEPT LATE FILED BRIEF**

On page 2 of Opposer's Trial Reply Brief, Opposer requests that Applicant's Trial Brief be given no consideration, the same having allegedly been filed late. The Opposer also states that Applicant ignored the requirement to include an alphabetical index of cited cases.

Applicant, through its undersigned attorney, hereby replies to Opposer's request and moves for the Board to accept the late filed brief.

Upon receipt and review of Opposer's Trial Reply Brief, Applicant's undersigned attorney first became aware of the late filing of the brief. The background is as follows:

The undersigned declares and states:

1. I John M. Rannells am the lead attorney for Applicant in the captioned proceeding, and I am the attorney responsible for Applicant's Trial Brief.
2. This Declaration is made upon personal knowledge of the facts set forth herein.

3. On July 18, 2011, I was ill and working remotely from home (i.e., through gotomypc.com) on Applicant's Trial Brief and Applicant's motion to strike or exclude certain testimony and/or evidence submitted by Opposer.

4. At about 9:00 pm, I had just finished work on Applicant's motion to strike when my connection with gotomypc.com failed and I could not regain connection from home. Accordingly, I drove to my office. After reaching the office, I filed the motion to strike (at approximately 9:45 pm). I then completed my final on Applicant's Trial Brief at sometime after 11:00 pm.

5. When I filed Applicant's Trial Brief, the time on my computer indicated that I had approximately 10 minutes left to file the Trial Brief before midnight. According to my recollection and to the time on my computer, I filed Applicant's Trial Brief before midnight on the 18th. Feeling ill, I immediately left the office, dropped the briefs in the postal box, and returned home.

6. Upon reviewing the Opposer's Reply Brief, I first became aware that the time date on Applicant's Trial Brief read July 19th. I went back to the ESTTA email receipt and discovered that it states July 19th. Attached is a copy of the receipt. I note that the bottom right hand corner of the url/date footer shows a date of July 18th (apparently the date as per my computer). I then printed out a screen shot of the receipt. It indicates a sent date/time from estta to myself as "7/19/2011 12:01 AM." I have since checked my computer and the time it displays appears to be a few minutes slow.

7. I have reviewed my copy of the Applicant's Trial Brief and it is complete with an alphabetical index of cited cases. Since Opposer's attorney does not indicate that his service copy was incomplete, I assume that he was served with the index of cases. In any event, I am annexing hereto a copy of the Table of Contents and Table of Cases and am serving the same upon Opposer's attorney with a copy of this motion.

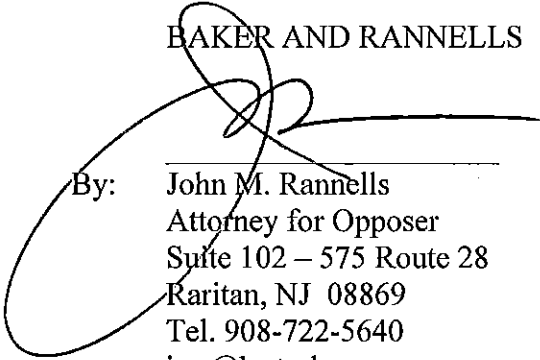
8. In the event the document was actually filed one (1) minute late, the same was inadvertent. I acted in good faith and with a good faith belief that the brief was timely filed. Given the circumstances of my illness and the incorrect time on my computer, and given the lack of any

prejudice to Opposer, I submit that that the late filing is excusable, and I request that the Board deny Opposer's request and accept Applicant's motion to accept the late filed brief.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Respectfully submitted

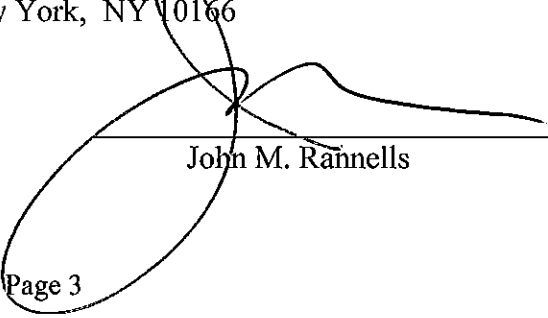
BAKER AND RANNELLS

By: 
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **APPLICANT'S RESPONSE TO OPPOSER'S REQUEST THAT APPLICANT'S TRIAL BRIEF BE GIVEN NO CONSIDERATION AND APPLICANT'S MOTION FOR BOARD TO ACCEPT LATE FILED BRIEF** in re *White Rock Distilleries, Inc. v. Franciscan Vineyards, Inc.*, Opposition No. 91191056, was forwarded by first class postage prepaid mail by depositing the same with the U.S. Postal Service on this 22th day of August, 2011, to the Attorney for Opposer at the following address:

Daniel I. Schloss
Greenberg Traurig, LLP
200 Park Avenue, 34th Floor
New York, NY 10166


John M. Rannells

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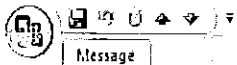
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91191056
Party	Defendant Franciscan Vineyards, Inc.
Correspondence Address	JOHN M RANNELLS BAKER & RANNELLS PA 575 ROUTE 28, SUITE 102 RARITAN, NJ 08869-1354 UNITED STATES jmr@br-tmlaw.com
Submission	Brief on Merits for Defendant
Filer's Name	John M. Rannells
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Signature	/john rannells/
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We have received your Opposition No.: 91191056 submitted through the Trademark Trial and Appeal Board's ESTTA electronic filing system. This is the only receipt which will be sent for this paper. If the Board later determines that your submission is inappropriate and should not have been accepted through ESTTA, you will receive notification and appropriate action will be taken.

Please note:

Unless your submission fails to meet the minimum legal requirements for filing, the Board will not cancel the filing or refund any fee paid.

If you have a technical question, comment or concern about your ESTTA submission, call 571-272-8580 during business hours or e-mail at estta@uspto.gov.

The status of any Board proceeding may be checked using TTABVue which is available at <http://ttabvue.uspto.gov>. Complete information on Board proceedings is not available through the TESS or TARR databases. Please allow a minimum of 2 business days for TTABVue to be updated with information on your submission.

The Board will consider and take appropriate action on your filing in due course.

Printable version of your request is attached to this e-mail

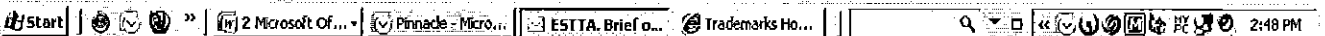


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